REMARKS

1. A problem addressed by the present invention is stated in the present application, as follows:

> The current state of the art is for a business to contract with a third party company to conduct periodic polling of its services, and thus generate an *approximation* of the response time perceived by actual customers. There are drawbacks to this polling scheme for several reasons, among which are accuracy, an increased load on the Web server due to the polling traffic, and difficulty of ensuring accurate or complete geographic coverage. Furthermore, some services may be cumbersome to measure by fictitious requests (e.g. financial transactions). An alternative to polling is to measure the server latency alone. IDC's provide this information to their customers, while "in-house" centers can measure the response time in a straightforward manner. This measurement, however, does not include the network interactions, and thus does not represent accurately the customer's perceived response time. For instance, such a measurement does not point to potential problems within the network (e.g. the need for faster Internet connection). Additionally, in the case of the IDC's, there has to be a mechanism for verifying the quoted numbers. Page 2, lines 6-19.

Applicant respectfully contends the references relied upon in the Office action for the rejections do not even recognize this particular problem, much less teach a solution to the problem. The present application teaches a solution to this problem, which includes attaching monitoring instructions for a client to blocks of information (for example, web pages) that the client obtains from a server.

2. Regarding the rejections of claims 1, 17 and 33, to more clearly point out patentable distinctions in the present invention and overcome the rejections, Applicant herein submits amendments to claims 1, 17 and 33. Specifically, Applicant herein amends claim 1 to more specifically state, "providing first instructions *stored on a server* and attached to a first block of information, wherein the block of information *is stored on the server* and is available for requesting by a client over a network."[1] Also, "the first instructions are for causing the client to read a first reference time, responsive to the client initiating access to a second block of information *from the server for delivery over the network*." Also, the amended claim states, "providing second instructions *stored on the server* and attached to the second block of information *stored on the server*." And finally, the amended claim states, "the first and second instructions are delivered to the client in response to at least one of the blocks of information being delivered to the client from the server." Amended claim 17 has similar language. And, as

[1] Applicant also herein submits an amendment to delete a stray comma in claim 1.

in the amendments herein to claims 1 and 17, amendment to claim 33 herein also states, "the first and second instructions are delivered to the client in response to at least one of the blocks of information being delivered to the client from the server."

No new matter is added in the amendments to claims 1, 17 and 33, since the specification and claims as originally submitted provides support. Present application, FIG. 1 and page 9, lines 9-14 and 17-20 (server 110 storing first web page 131 and second web page 132); page 7, lines 4-6, page 9, line 17 - page 10, line 4 (first and second instructions, i.e., scripts 210 and 220, may be embedded in the web pages 131 and 132, in separate files, or in a single file); page 9, line 22 - page 10, line 2 (each script is delivered to the client the first time the client receives a page which references the script, or the scripts may be in a single file, in which case all the scripts are delivered to the client the first time the client receives a page that references the first one of the scripts).

The Office action rejected claims 1, 12, 13, 17, 28, 29, 33, 44 and 45 under 35 U.S.C. 102(a) as being anticipated by U.S. Patent 6,484,129 ("Klein").

Applicant respectfully contends Klein does not anticipate claims 1, 17 and 33, as amended. For example, Klein does not teach "A *server* comprising: a storage device . . . wherein the storage device is for storing . . . blocks of information, first instructions attached to a first one of the blocks of information, . . . wherein the blocks of information are available for requesting by a *client* . . . wherein the first instructions are for causing the client to read a first reference time responsive to the client initiating access to the second block of information . . ." Present application, claim 33. Claims 1 and 17, as amended, have similar language.

The Office action argues that Klein discloses the above aspects of claim 33 at col. 3, lines 15-23, and col. 4, lines 26-29. Applicant contends Klein discloses that message types include messages that indicate mouse movements, window creations, etc. Klein, col. 3, lines 15-23. That is, any of a number of different types of messages indicating "window or device events in the GUI . . . initiate or start the monitoring function." Id. And Klein discloses that mouse or keyboard input initiates a request for information, causing the operating system to create an inbound message that is sent to an inbound message queue. Klein, col. 4, lines 26-29. Also, the operating system generates inbound messages in response to window or device events, that are sent to the inbound message queue. Id.

It should be understood from the above passages that Klein teaches a "monitoring function" starts and stops responsive to window or device events. In Klein's teaching, the monitoring function is one or more programs on the computer where the monitored events occur. See Klein, col. 2, line 66-67 ("The computer program that implements the monitoring functions of the present invention . . ."), and col. 4, lines 7-9 ("FIG. 2 is a block diagram that illustrates the various software components of the present invention. The client 100 includes a monitor program 110, application 112, inbound message queue 114, and outbound message queue 116. Although only one application 112 is shown in FIG. 2, many applications 112 could be running simultaneously and the monitor program 110 would collect data for each independently."). In the claims of the present application, however, first and second instructions are for a client to execute, but are *attached* to first and second blocks of information, and the blocks and instructions are *stored on a server*. Klein does not teach that the monitoring instructions for the client are *stored on a server with and attached* to blocks of information. (It should also be noted that the term "attached" has a specific, clearly pointed out meaning. Present application, page 10, lines 6-9 ("Herein reference to a script "attached to" a page or a link, is meant to include both the case of the script itself being inserted in the page, and the case of a reference to the script being included in the page or link, so that while the script itself is not included in the page, the script is nevertheless called by the reference.").)

Klein also does not teach that the client obtains the instructions from a server. Applicant also herein amends claims 1, 17 and 33 to further state that the instructions themselves are obtained from the server, i.e., "the first and second instructions are delivered to the client in response to at least one of the blocks of information being delivered to the client from the server." Klein clearly does not teach this.

It should be particularly appreciated from the above that the claimed invention enables capturing a starting time stamp by the client immediately when the client requests the second block of information, but it does not require the installation of a monitoring program on the client in advance of receiving either the first or second blocks of information, because the instructions attached to the blocks of code are delivered to the client from the server responsive to delivery of one or more of the blocks of information. Klein does not teach any of this.

Note that the Office action cites Klein, col. 3, lines 23-27, and col. 4, lines 44-61, in connection with the rejection of claims 1, 17 and 33. Applicant also contends that these passages do not teach what is claimed in claims 1, 17 and 33. Klein teaches that the window or device

event messages "may be used to update or end the monitoring function." Klein, col. 3, lines 23-27. And Klein teaches that the difference between start time and end time measures end-to-end response time. Klein, col. 4, lines 44-61. But these passages, like the ones discussed herein above, do not concern instructions for executing by a client that are attached to a block of information stored on a server and that are delivered to the client with one of the blocks of information.

3. Regarding the rejection of claims 12, 13, 28, 29, 44 and 45, the Office action relies upon Klein, col. 5, lines 8-16 and 50-54. Applicant contends that the cited passages of Klein teach *identifying* a window for which monitoring is performed. This does not teach causing the client to *append* the first reference time to one of the window names, as in the present claims 12, 28 and 44. Nor does it teach causing the client to *parse* the first reference time from the window name, as in the present claims 13, 29 and 45. Appending times to and parsing them from a window name, as claimed in the present case, are useful because the window name property is persistent in the context of client-side and browser rendering of HTML information. Present application, page 20, line 14 - page 21, line 3 ("Every window object has a *name* property. This property exists so that it may be used as the value of a HTML TARGET attribute in the <A> or <FORM> tags. In essence, the TARGET attribute enables an anchor or frame to display its results (when the linked document is dereferenced or a form is submitted) in the window with the specified name. The initial window and all new browser windows opened by Internet Explorer and Netscape Navigator have no predefined name attribute. Consequently, these windows cannot be addressed with a TARGET attribute. The name attribute is read-only in Javascript 1.0, creating a problem when the initial window has to be addressed. Javascript 1.1 resolves this problem by enabling the name attribute to be modified from within a script. As previously stated, when a new page is loaded in a window, all of the scripts and variables associated with the window object are cleared. However, a window's name property persists across page loads.").

4. Regarding the rejections of claims 2, 8, 9, 14-16, 18, 24, 25, 30-32, 34, 40, 41, and 46-48, the Office action relies upon Klein in view of U.S. Patent 6,766,370 ("Glommen"). Applicant contends that since the independent claims upon which these claims depend are allowable, as described herein above, therefore claims 2, 8, 9, 14-16, 18, 24, 25, 30-32, 34, 40, 41, and 46-48 are allowable. MPEP 2143.03 ("If an independent claim is nonobvious under 35

U.S.C. 103, then any claim depending therefrom is nonobvious," citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Also, the Office action relies upon Glommen, col. 7, lines 40-49, col. 9, line 66 - col. 10, line 9 and FIG. 4 for the rejections of claims 2, 18 and 34. The passage of Glommen at col. 7, lines 40-49 describes a web page with HTML code defining a link to another web page. The passage of Glommen at line 66 - col. 10, line 9 describes the contents of certain data fields in a cookie. Glommen FIG. 4 shows the web page which is the subject of the description at col. 7, lines 40-49. The Office action contends these teachings suggest first instructions attached to a link in a first block of information (e.g., web page), wherein the link references a second block of information (e.g., second web page), so that the first instructions are capable of being executed by the client upon loading information indicated by the link. Applicant contends the cited portions of Glommen do not teach or suggest instructions attached to a link in a first block of information, as claimed in the present case, but merely teaches HTML code that constitutes a link. Claim 2 ("the first instructions are attached to a link in the first block of information, wherein the link references the second block of information, so that the first instructions are capable of being executed by the client upon loading information indicated by the link"); specification, page 3, lines 7-8 (stating that "the client browses a first web page (or, more generally, a first 'block of information')").

5. Regarding the rejections of claims 3, 4, 10, 11, 19, 20, 26, 27, 35, 36, 42 and 34, the Office action relies upon Klein in view of U.S. Patent 5,970,468 ("Bull"). Applicant contends that since the independent claims upon which these claims depend are allowable, as described herein above, therefore claims 3, 4, 10, 11, 19, 20, 26, 27, 35, 36, 42 and 34 are allowable. MPEP 2143.03 ("If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious," citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Also, the Office action relies upon Bull, col. 6, lines 1-20, for the rejections of claims 3, 4, 19, 20, 35 and 36. The cited passage of Bull describes a browser window with frames, wherein one of the frames shows certain events and one shows times for the events. Applicant contends this does not suggest instructions for causing a client to load a reference time in a *hidden* frame of a window, as claimed in the present case.

6. Regarding the rejections of claims 5-7, 21-23, and 37-39, the Office action relies upon Klein in view Glommen and further in view of Bull. Applicant contends that since the independent claims upon which these claims depend are allowable, as described herein above, therefore claims 5-7, 21-23, and 37-39 are allowable. MPEP 2143.03 ("If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious," citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Also, the Office action relies upon Bull, for the rejections of claims 5, 6, 21, 22, 37 and 38. For claims 5, 21 and 37 the Office action cites Bull, col. 3, lines 27-31. The cited passage of Glommen describes a user selecting an icon to indicate a desire to communicate. Applicant contends this does not suggest instructions for causing the client to load the first reference time in a hidden frame of the window, as in claims 5, 21 and 37 in the present case. The Office action relies upon Bull, col. 6, lines 1-20, for the rejections of claims 6, 22 and 38. The cited passage of Bull describes a browser window with frames, wherein one of the frames shows certain events and one shows times for the events. Applicant contends this does not suggest instructions for causing a client to load a reference time in a *hidden* frame of a window, as in claims 6, 22 and 38 in the present case.

7. Applicant herein amends the specification to add the application number of cress-referenced application, as requested.

PRIOR ART OF RECORD

Applicant has reviewed the prior art of record cited by but not relied upon by Examiner, and asserts that the invention is patentably distinct.

REQUESTED ACTION

Applicant contends that the invention as claimed in accordance with amendments submitted herein is patentably distinct, and hereby requests that Examiner grant allowance and prompt passage of the application to issuance.

Respectfully submitted,

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